
DISCIPLINARY POLICY AND PROCEDURE

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1. POLICY

The purpose of this policy is to provide clear, consistent and fair disciplinary procedures that enables the governing body to comply with its responsibilities under employment legislation and best practice, including ACAS guidelines and regulation 7 (1) of the School Staffing (England) Regulations 2009 (amended 2015).

The aim of this policy is to help employees achieve and maintain high standards of conduct. It sets out the procedure that ensures allegations of unsatisfactory conduct are dealt with fairly, consistently and promptly.

This means that:

- No disciplinary action will be taken against an employee until the matter has been properly investigated, but it will be progressed promptly. In the event of a disciplinary hearing being arranged the employee will be advised of the nature of the allegations and the potential consequences of the allegations i.e. written warning, final written warning or dismissal, beforehand and in writing;
- The employee will be given the opportunity to state his or her case before any decision is made;
- In reaching a decision on appropriate disciplinary penalties managers will take into account all of the circumstances including those put forward in mitigation by the employee;
- At all formal stages of the procedure the employee will have the right to be accompanied by a work colleague or a trade union representative;
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- The procedure may be implemented at any stage if the alleged misconduct warrants such action; and
- Every employee has the right to appeal against any disciplinary action taken under the formal stages of the procedure.

Examples of behaviour that may be considered gross misconduct are listed under Appendix 2. This list is not exhaustive and it should be read alongside the relevant Code of Conduct for any employee.

The governing body's rules and standards apply to all employees and are summarised in the employee's statement of terms and conditions, policies and associated documents, and the relevant Code of Conduct.

Schools must formally adopt the procedure and ensure that this is formally recorded in governing body minutes.

Any governor who has been involved in detailed discussions regarding any disciplinary matter is precluded from any subsequent hearing or appeal.

Headteachers, governing bodies and employees should adhere to the policy and procedure and act consistently in all matters related to discipline.

2. SCOPE

This policy and procedure applies to schools with full delegated status as laid down in Herefordshire Council's Local Management of Schools (LMS) Scheme.

Voluntary aided church schools and academy schools where Herefordshire Council is not the legal employer, may choose to adopt different disciplinary procedures as determined by the relevant diocesan authority or trust board. Schools should ensure that HR Services are provided with a copy of any disciplinary policy and procedure that they develop.

The Disciplinary Policy and Procedure applies where the issues involved are under the reasonable control of the employee. These include negligence, lack of application on the part of the employee, or problems resulting from an employee's inappropriate attitude ('can but won't'). This is distinct from where the problems are due to the result of the employee's inability to undertake the duties of their post due to insufficient skill or aptitude ('would but can't').

Where the reason is not within the control of the employee, e.g. ill-health, lack of training, or the changing nature of the job, HR002 (SCCH) Managing Performance Policy for support staff or HR001 (SCH) Teacher Capability Policy and Procedure, HR006 (SCH) Managing Attendance Policy and Procedure (or HR021 (SCH) Probationary Policy (for employees who are employed on NJC terms and conditions and new to local government) will be used instead. However, where an employee's absence level has been investigated and the absences have been deemed to constitute an abuse of the occupational sick pay scheme the employee will be dealt with under the disciplinary procedure.

3. DISCIPLINARY PROCEDURE

INFORMAL METHODS OF IMPROVING CONDUCT (regarded as outside the scope of the formal procedure)

Headteachers should speak with the employee, privately and at an early opportunity, if there are any concerns about the employee's conduct. This enables the headteacher or nominated representative to clarify the acceptable standards of behaviour. The headteacher or nominated representative will need to ensure that the employee understands what they need to do, when, and how this will be monitored or reviewed in future. Prompt action by the headteacher or nominated representative in such circumstances will help avoid the necessity to resort to formal procedures later on and will assist the employee to improve.

The headteacher or nominated representative will keep brief notes of the discussion and action agreed, and will confirm the main points of the discussion to the employee in writing afterwards so that both parties have a record they can refer to. (TEMPLATE 1 – MGT INSTRUCTION)

This discussion is not a disciplinary hearing. If it appears that the issue is more serious than at first anticipated the meeting should be terminated and the formal procedures below followed.

FACT FINDING/INVESTIGATION

- When alleged misconduct has been identified or an allegation of misconduct is made, the employee's headteacher or nominated representative will carry out an investigation.
- The role of the investigating manager is to consider and investigate the alleged incident objectively, and determine whether there is a case to answer at disciplinary hearing.
- The investigating officer should have no conflict of interest regarding the case.
- The terms of reference for the investigation must be clearly determined (TEMPLATE 2 - INVEST TORS).
- The investigation must be completed as soon as possible, and be thorough, impartial, proportionate, and fair.
- The governing body is committed to ensuring potential breaches of conduct are fully investigated. This can include interviews with the employee concerned, third parties such as witnesses, colleagues, and members of the senior leadership team, as well as written records. It may also involve a search of the employee's person or property with their permission. Where necessary and on an exceptional basis (usually for fear of reprisal) the identity of witnesses may be kept confidential, although this cannot be guaranteed.(TEMPLATE 6 – INVEST INVITE (W))
- Where an employee is called to attend an investigatory meeting, it will be made clear that whilst it is not a disciplinary hearing, the investigation could lead to a disciplinary hearing if circumstances warrant such action. (TEMPLATE 5 - INVEST INVITE (E))
- If an employee wishes to be accompanied at an investigatory meeting (by a trade union representative or work colleague), they should request this of the investigating manager.

This will not normally be refused, even though there is no statutory right, unless there is some substantive good reason for the refusal.

- In certain circumstances an independent investigating officer may be required. This external investigator will be provided via HR Services and/or the Learning and Achievement team.
- Where alleged misconduct is about corporate abuse of systems, or similar, a strategy meeting will be held between HR Services, the headteacher / chair of governors and legal services to decide how best to approach the investigation.
- If there is a requirement to interview a child as part of the investigation advice should be sought from HR services.

The investigating manager will ensure that notes are taken of the questions asked during any investigatory meeting, and the responses given. A suitable school based employee i.e. clerk to governors, personal assistant will be invited to attend the meeting by the investigating manager for this purpose, or an external note taker will be appointed. These notes will form the investigating manager's record of the meeting, but a copy will be provided to the employee and their representative for information, following the meeting. The employee and their representative should ensure that the notes are accurate and a true record of the meeting. The employee and their representative may, if they wish, submit a note to the investigating manager if they believe the management record is not accurate. This will then be attached to the investigating manager's notes and form part of the case records should a formal disciplinary hearing be necessary.(TEMPLATE 7 – COVER LETTER)

Once the investigation is concluded the investigating manager will complete TEMPLATE 4 – INVEST SUMM and send it to their headteacher or nominated representative or chair of governors (in cases of potential dismissal) [to be known as the Disciplining Manager], who will consider the recommendation. If it is decided to hold a disciplinary hearing the necessary arrangements will be made by either the headteacher or nominated representative or clerk to governors as appropriate. The investigating manager will present their report and findings at any disciplinary hearing that are subsequently arranged.

If it is decided not to hold a disciplinary hearing the Disciplining Manager should write to the employee to confirm this and to set out what arrangements, if any, are necessary to ensure a smooth return to normal working (TEMPLATE 9 – INVEST NFA).

Consideration of Suspension In exceptional circumstances where an allegation of gross misconduct has been made and it is considered that the employee cannot remain in the school during the investigation process, it may be necessary to suspend the employee on normal pay.

- This is not in any way a disciplinary measure and does not prejudge the outcome of the investigation.
- Any decision to suspend will be made in accordance with the Staffing Regulations by the headteacher or chair of governor in consultation with HR Services and confirmed in writing.
- The suspension must be for as short a period as possible and be reviewed by the headteacher or chair of governors every 10 working days.
- Careful consideration should be given to the circumstances of the case and the employer should consider whether the arrangements that would have been achieved by the suspension could be obtained by alternative arrangements for example redeployment or providing an assistant to be present when the employee has contact with children. It may also be appropriate to consider paid leave as an alternative to suspension. Such thought processes will minimise potential professional reputational damage to teachers that can result from suspension where an allegation may later be found to be unsubstantiated, unfounded or malicious.

During any period of suspension the employee shall not attend his or her place of work other than for attending investigatory interviews and/or disciplinary hearings. The employee must not contact other employees, partners, governors, pupils, parents, or elected members (except as a constituent) of the

council, or access the council's communication and information networks, without prior consent from the headteacher or chair of governors. The employee must comply with any requests from their headteacher or nominated representative to return items of council or school property, for example keys, laptop, etc. for the period of suspension. They should make themselves available during normal working hours.

The only exception to this is that if the employee has any queries they may contact their nominated contact person. The contact person will be nominated by the headteacher or nominated representative and is there to listen to the employee's worries, pass on answers to their general queries and make arrangements on their behalf to allow them to prepare for their involvement in the investigation. If the employee wishes to contact any witness in the course of the investigation, take annual leave (where applicable) not previously authorised, or notify of any sickness, this should be done via the contact person. In allowing access for the employee to prepare their own case, the role of the contact person will be to make appropriate arrangements, with the consent of the headteacher or chair of governors, for the individual to have access to the relevant information either by passing the information to them or allowing them direct access with appropriate supervision. If the individual needs to contact a possible witness arrangements for this should be made via the contact person. This process should in no way impede the right of the employee to prepare their own case. If necessary time scales may be extended to allow sufficient time for this to take place. Breaches of these requirements during suspension may lead to separate disciplinary action.

In a situation where the employee is asked for information regarding the reasons for their suspension by other members of staff, this matter should be reported immediately to the headteacher or nominated representative.

If at the time of suspension the employee is not in receipt of pay, for example because they have exhausted occupational sick pay, then they will not be entitled to normal pay for the period of suspension.

Further guidance on suspension in these circumstances may be found in Appendix 3.

Criminal Offences. If the manager considers that the alleged conduct may constitute a criminal offence, such as theft or assault, or if a criminal conviction comes to light that potentially impacts on the employee's suitability to perform their duties, s/he should seek immediate advice from HR Services.

Allegations against members of staff regarding a safeguarding issue in school. Any allegation against a member of staff where it is alleged that:

- The member of staff has behaved in a way that has harmed a child or may have harmed a child
- Possibly committed a criminal offence against or related to a child
- Behaved in a way towards a child or children, that indicates he / she is unsuitable to work with children

The Local Authority Designated Officer (LADO) must be informed immediately before any action is undertaken at school level. The LADO is responsible for advising and monitoring cases of this nature. Where it is determined that a police investigation is necessary this will take precedence over the internal school investigation.

Allegations made about trade union officials. A full-time union official must be informed and the case discussed with him/her prior to any disciplinary hearing being arranged.

Disciplinary and Grievance. Where an employee raises a grievance during a disciplinary process or during any disciplinary meeting it may be necessary to suspend the disciplinary process while the grievance is dealt with however where the disciplinary and grievance cases are related it may be possible to deal with both concurrently. Should this be the case the Chair of the meeting should decide if it is

appropriate to continue or suspend the meeting to ensure there is no conflict of interests, bias or discrimination.

DISCIPLINARY HEARINGS

Upon receipt of TEMPLATE 4 – INVEST SUMM the disciplining manager will undertake the following action:

Write to the employee outlining the allegations, the basis on which they have been made, and asking them to attend a disciplinary hearing (TEMPLATE 8 – HEAR INVITE). A minimum of five working days' notice will be given of the hearing. The disciplining manager will endeavour to hold the disciplinary hearing within 15 working days of receipt of the summary of investigation form. If the employee's representative (see para 5.3.4) cannot attend on the proposed date, the employee or the employee's representative can suggest another reasonable date and time for the hearing, normally no more than five working days after the date originally proposed. The five day limit may only be extended by mutual agreement.

In addition to enclosing a copy of HR003 (SCH) Disciplinary Policy and Procedure, any documents that the investigating manager will refer to during the disciplinary hearing will also be sent to the employee (i.e. TEMPLATE 4 – INVEST SUMM, the investigating manager's notes of investigatory meetings, copies of witness statements etc.), along with the names of any witnesses who will be attending the hearing at the investigating officer's request. A copy of the letter requesting the employee's attendance at the hearing will be sent to HR Services for information (where appropriate) and, if the employee has requested, a copy will be sent to their work colleague/trade union representative.

Right to be accompanied. The employee has the right to be accompanied at all formal stages of the disciplinary procedure, including appeals, by a trade union representative or work colleague. This right does not apply to informal stages. No companion from an external source, other than a trade union official, may accompany the employee.

The companion should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not however have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employee from explaining their case.

The employee, or their representative, must provide copies of the documentation to which they may refer, and the names of any witnesses they wish to attend, to the headteacher or nominated representative at least two working days prior to the disciplinary hearing. It is the employee's responsibility to inform their witnesses of the date, time and location of the hearing.

If the employee fails to attend the disciplinary hearing without notifying the school or providing a medical certificate for absence, through circumstances beyond their control and unforeseeable at the time the meeting was arranged, the disciplining manager should write to the employee advising of an alternative date for the disciplinary hearing (TEMPLATE 10 – HEAR FAIL), If the employee's work colleague or trade union representative cannot attend on the proposed date, the governing body will suggest another reasonable date, normally no more than five working days after the date originally proposed. The five day limit may only be extended by mutual agreement. If the employee fails to attend without notifying the school the disciplinary hearing will continue in their absence and the level of sanction will be based on the evidence available. If the employee fails to attend the re-arranged hearing the disciplinary will proceed in the employee's absence, and the employee will be notified of the outcome of the meeting in writing (TEMPLATE 11 – HEAR FAIL 2).

The disciplinary hearing will include the following:

- The investigating manager will present the finding of his/her investigation. The employee and/or their trade union representative/work colleague will have the opportunity to ask questions of the manager, and witnesses (where present).

- The employee and/or their trade union representative/work colleague will then present their case, and the headteacher / nominated representative will have the opportunity to ask questions of the employee, and of any witnesses called. The employee, rather than the representative, must answer questions relating to matters of fact.
- Both parties will be invited to sum up their cases in the order in which they were presented prior to the adjournment of the hearing.

The disciplining manager or panel of governors will ask at any stage, questions they need of the employee, investigating manager and any witnesses. A representative from HR Services may attend the hearing to provide appropriate advice and guidance to the disciplining manager or panel of three governors hearing the case and to ask any additional questions in order to ensure the panel have the full information. The employee's representative will be able to address the hearing and put questions, but other than in exceptional circumstances the employee must answer any questions put directly to them. Notes of the hearing will be taken by a suitable note taker arranged by the headteacher or nominated representative / governing body. A copy of the hearing minutes will be provided to the employee and their representative, following the hearing.

The disciplining manager or panel of governors will decide the appropriate disciplinary measure, if any, following a consideration of the facts, any statement put forward by the employee in mitigation, and on the balance of probability that the employee breached the rules of conduct. The measures open to the manager are:

- **No disciplinary action.** Applicable where there is insufficient or no evidence to support the allegation(s). If appropriate the headteacher or nominated representative or panel of three governors should bring to the attention of the employee any concerns about any of their actions, which whilst insufficient in themselves to warrant a disciplinary penalty, should be avoided in the future. Any such concerns should be followed up in writing.
- **First Written Warning.** If conduct is unsatisfactory the employee will be given a written warning which will include details of the required improvements necessary and the consequences of failure to achieve/adhere to these within a specified timescale. This warning will be disregarded for disciplinary purposes after 12 months.
- **Final Written Warning.** If the offence is sufficiently serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be issued. This will include the reason for the warning, the consequences of further failure or repetition, and the timescales required for improvement. This warning will be disregarded for disciplinary purposes after 24 months, although in exceptional cases it may be longer.
- **Dismissal.** If the conduct has failed to improve, or if a further similar offence occurs, the normal consequence will be dismissal with notice or payment in lieu of notice. In cases of gross misconduct the normal consequence will be summary dismissal (without notice or pay in lieu of notice).

In determining a disciplinary measure the disciplining manager or panel of governors will, in consultation with HR Services (where applicable), give consideration to the following:

- the warning level detailed in the disciplinary procedure relevant to the type of misconduct
- the nature of the misconduct and any warnings imposed in similar cases in the past
- the employee's disciplinary and employment record (experience, position, length of service)
- any special circumstances that constitute mitigating factors that will mean that it is appropriate to adjust the severity of the penalty
- whether the proposed warning level is reasonable considering all factors of the case
- any training, or additional support that may be required.

Normally the decision will be communicated to the employee at the reconvened hearing, following an adjournment to consider the information presented. In any event the decisions will be put in writing to the employee, normally within five working days of the hearing. In very exceptional circumstances the decision may be deferred in which case the reason for the delay, along with an expected timescale will be put in writing to the parties. The final decision letter will explain, if appropriate, how the employee can appeal against the decision, should they wish (a copy of the letter should be sent to HR Services). (TEMPLATE 12 – HEAR NFA, TEMPLATE 13 – FIRST WRITTEN, TEMPLATE 14 – FINAL WRITTEN, TEMPLATE 15 - DISMISSAL)

4. DISCIPLINARY ACTION AGAINST THE HEADTEACHER

Any complaint or concern about the conduct of the headteacher should be reported to the chair of governors. The chair of governors will follow the procedure as outlined in section 3.

The chair of governors may appoint an investigating manager to the investigation, where this is considered appropriate - see above.

The chair of governors is advised to seek advice from HR Services before any action is taken under these procedures.

The chair of governors should inform the Director of Children's Wellbeing of any allegation of misconduct against the headteacher and immediately in all cases of gross misconduct where there is a potential for the headteacher to be suspended.

The Chair of governors should take reasonable steps to ensure that confidentiality is maintained in the case of any allegations against the headteacher. Under no circumstances should the case or the alleged incident be discussed or considered by governors prior to disciplinary proceedings. Any governor who has been involved in any discussion on the case (with the exception of the chair of governors as the Investigating Manager) will be prohibited from taking any part in a subsequent disciplinary panel or appeals panel.

Where it is determined that there is a need for a detailed investigation beyond the scope of the chair of governors, the Director of Children's Wellbeing should be notified who will arrange for an appropriate officer of the local authority to conduct the investigation.

The chair of governors, governor disciplinary panel and the appeal panel should give due regard to any advice issued by the Director of Children's Wellbeing or their nominated representative.

5. DISMISSAL

The governing body in maintained and voluntary controlled schools is responsible for establishing procedures in relation to the dismissal of staff.

The governing body may delegate the function of dismissal to the headteacher where this is appropriate.

The decision to delegate this function should be fully documented, and governing bodies may use a standing order for this purpose.

Where a governing body has delegated the function of dismissal to the headteacher, the school should notify the local authority and HR services.

Where the functions have been delegated to the headteacher, the headteacher cannot delegate this function to another person or persons.

Where the function of dismissal is not delegated to the headteacher, the headteacher has the right to attend and offer advice to all relevant proceedings, and any advice given should be considered by the governor panel. (Normally the headteacher will be the investigating officer presenting the case at a disciplinary hearing, and can fulfil this function through this role).

The local authority has a statutory duty to send a representative to all proceedings relating to the dismissal of any teacher, and offer advice. Any advice offered by the local authority at these proceedings must be considered by the governing body when reaching a decision.

A member of HR Services has delegated responsibility to represent the local authority and perform this function on behalf of the local authority.

All advice offered by the representative and decisions made by the governing body in the light of that advice should be fully documented.

For community and voluntary controlled schools, the governing body must notify the local authority, in writing, if it determines that any person employed to work at the school should cease to work there and the reasons for that determination.

The local authority must terminate the employee's contract (with or without notice as appropriate) within 14 days of the date the notification was issued by the governing body.

6. APPEALS

If a sanction (warning or dismissal) is imposed the employee has a right of appeal. All appeals must be made in writing by completing TEMPLATE 16 – APPEAL FORM within five working days of receipt of the written notification of the decision.

The grounds on which the employee can appeal are

- This procedure was not followed, and / or
- The finding of the disciplinary hearing was unreasonable, and / or
- The management decision was inappropriate, and / or
- New, or additional, information has come to light which was not available at the time of the hearing.

Any appeal against any level of sanction should be sent to clerk to governors for an appeal panel to be convened.

The appeal panel will consist of a panel of three governors who have not been previously involved with the case.

The clerk to governors will write to the employee to invite them to an appeal hearing (TEMPLATE 17 – APPEAL INVITE). The employee should be advised in the letter that they have the right to be accompanied by a trade union representative or work colleague at the hearing.

A minimum of five working days' notice will be given of the appeal hearing. If the employee's representative cannot attend on the proposed date, the employee may suggest another reasonable date no more than five working days after the date originally proposed. The five day limit may only be extended by mutual agreement.

A copy of the letter will be sent to HR Services for information where applicable. The appeal panel will be arranged within twenty working days of receipt of the appeal letter.

The appeal will be a review of the evidence considered and will not normally involve a full re-hearing unless additional information is available.

The employee must provide copies of any documentation they wish to refer to, to the clerk to governors, at least five working days prior to the appeal.

The appeal panel consisting of three governors will nominate a chair to conduct proceedings.

The appeal hearing will normally be conducted as follows with the chair of the hearing having the discretion to adapt the process to meet the circumstances of the case and depending on whether or not the appeal is a full rehearing:

- The chair of the hearing will introduce the participants and their roles, check that everyone has the correct documentation and explain what is going to happen
- A representative from HR Services may attend the appeal hearing in order to provide appropriate advice and guidance to the panel of three governors hearing the case. If HR Services have been involved in the disciplinary hearing stage, the HR representative at the appeal stage must be a different HR representative to the one who attended the disciplinary hearing.
- The employee (and/or their representative) will present their case/summary submission to the chair/panel. The investigating manager and the panel, including the HR representative, will have the opportunity to ask any questions. The employee, rather than the representative, must answer questions relating to matters of fact.
- The investigating manager will put their case/summary submission to the panel. The employee (and/or their representative) and the panel, including the HR Services representative, will have the opportunity to ask questions.
- Both sides will sum up their cases (no new information can be introduced at this stage).
- Both sides will adjourn while the appeal panel (and their adviser) consider the information and make their decision (normally this would be expected on the same day).
- The panel will ask both sides to return and inform the employee of their decision.

The appeal panel should decide either that:

- The sanction issued was appropriate and should stand; or,
- The sanction should not have been imposed, or the measure issued was inappropriate, in which case they will determine what measure is appropriate.

This decision will normally be confirmed to the employee in writing within five working days of the hearing (TEMPLATE 18 – APPEAL OUTCOME). The decision made on appeal will be final and where dismissal is upheld the effective date of termination shall be the date on which the employee was originally dismissed/given notice of dismissal. If appeal against dismissal is upheld the employee's pay and continuous service will be restored from the original date of dismissal.

A copy of the letter will also be sent to HR Services.

7. NOTES

The timescales to complete the stages listed above will be adhered to wherever possible but are not binding on the governing body.

The Grievance Procedure should not be used for appeals against disciplinary decisions. If, however, an employee has a complaint about the behaviour of headteacher or nominated representative during the course of a disciplinary matter they may raise it as a grievance. If necessary the disciplinary matter may be suspended for a short period until the grievance can be considered. If appropriate, another manager may be brought in to complete the disciplinary matter.

The governing body reserves the right to seek assistance from suitably experienced and/or qualified external experts at any stage in the procedure, in the interests of seeking a satisfactory outcome for all those concerned.

If a headteacher is the subject of the alleged misconduct, the chair of governors or nominated governor will carry out the headteacher's role, with a panel of governors who have not been involved with the case, considering an appeal against all sanctions.

Record Keeping. The clerk to governors is responsible for recording any hearing conducted by a panel of governors.

The records of any meetings concerned with discipline are likely to be classified as sensitive data. The records must be relevant, accurate, confidential and secure.

Documents pertaining to a case which has been found to have no merit will be destroyed as soon as possible. Spent disciplinary warnings will be marked as expired.

In applying this procedure the governing body will pay due regard to providing reasonable adjustments under employment legislation to an employee who has a disability.

Action initiated under one procedure may be changed to an alternative procedure if investigation of the circumstances indicates this would be more appropriate.

Copies of the policies and procedures referred to in this document are available from the extranet, your headteacher, or the HR Services.

If you need further assistance with this document please refer to your headteacher or Human Resources Services.

8. COMPLIANCE

Failure to follow this procedure may impact on good employee relations and the reputation of the school and governing body as a good employer. In addition, it may result in the governing body breaching employment legislation, incurring financial penalties and / or damage to its reputation.

Headteachers who fail to manage in accordance with this policy will be investigated by the Governing body and this may lead to formal action under HR001 (SCH) Teacher Capability Policy and Procedure or this disciplinary policy and procedure.

9. IMPACT ON THE SCHOOL PRIORITIES

The policy provides clear statements about headteacher and employee responsibilities to ensure that the conduct of all school employees is of a high standard. This procedure supports schools in delivering excellent teaching and learning and enables the governing body to effectively meet its key school priorities.

10. TRAINING AND AWARENESS REQUIREMENTS

Headteachers and employees will be informed about this policy and procedure via appropriate communication channels.

11. MONITORING

The Director of Children's Wellbeing is responsible for ensuring implementation and review of this policy and procedure for local authority schools. The governing body is responsible for adopting and implementing this policy and procedure.

HR Services and the Learning and Achievement Team will be notified of any cases where it is concluded that the policy was breached. The notification will indicate whether there are any changes or improvements required to the policies, procedure, training, support or any other aspect of the school's approach to disciplinary matters.

HR Services will monitor the effectiveness of the policy through information received via feedback from headteachers and employees through, for example, management team meetings and exit interviews, as well as the numbers of employees using this procedure.

12. REVIEW

This document will be reviewed after three years unless circumstances demand a review before then.

APPENDIX 1 - DEFINITIONS AND RESPONSIBILITIES

DEFINITIONS

The meaning of some key words and phrases, for the purposes of this policy, are explained below:

Work Colleague. A current employee of Herefordshire Council based in Herefordshire maintained school.

Headteacher. The person responsible for leading and managing the school, and has delegated powers to ensure all matters of discipline are appropriately managed. References to the headteacher shall include any nominated deputy headteacher / line manager acting on his / her behalf. In the case of teachers, the headteacher or in his / her absence, the deputy headteacher may act on his / her behalf.

Panel of governors. This is a panel of three governors who are used for any potential dismissal hearing and any appeal hearing. Where governors have been involved in the disciplinary they are then precluded from being on the appeal panel.

Trade Union representative. Lay or permanent official of the Trade Union to which the employee belongs, who has been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings.

Working days. Any designated term-time or Teacher Education Training Day or any other contractual working day, but excluding the day of any disciplinary hearing and the day on which the notification of hearing is sent to the employee.

Investigatory Fact Finding/Meeting. Meetings held by the headteacher or nominated representative investigating an allegation of misconduct to ascertain the facts of a case which will determine if a disciplinary hearing is held. The employee has no formal right of representation at this stage, although it will not normally be refused.

Disciplinary Hearing. A hearing chaired to determine whether a disciplinary penalty should be imposed, following full consideration of the case. An employee facing a disciplinary hearing has the right of representation at the hearing.

Gross Misconduct. An employee's actions that are felt to be so serious that they warrant summary dismissal, i.e. dismissal without notice or pay in lieu of notice (see below).

Summary dismissal. Dismissal without pay (or pay in lieu of notice) imposed at a disciplinary hearing following an act or omission which constitutes gross misconduct.

RESPONSIBILITIES

Headteachers or nominated representatives are responsible for ensuring that employees understand the standards of behaviour that are expected of them, maintaining those standards within their teams, and complying with the requirements of this policy and procedure, should action need to be taken. These standards should be made clear during the induction process and as part of the ongoing communication with employees, including 1:1s, the performance appraisal process where applicable, and performance management process for teachers in schools.

Employees are responsible for familiarising themselves with the main standards of conduct, for asking their headteacher or nominated representative if they are unclear about what is expected of them, and for their own subsequent behaviour and actions.

Headteachers and employees are both responsible for acting respectfully toward others in relation to the implementation of these procedures. All parties should have due regard for maintaining confidentiality

during any investigation or disciplinary hearing and, if in doubt, should seek advice on this from HR Services.

Governing body is responsible for ensuring that the procedure is applied consistently and fairly and that appropriate action is undertaken.

Governors are responsible for conducting themselves in an appropriate manner and should have due regard for maintaining confidentiality in relation to any disciplinary issue.

HR Services are responsible for providing timely and appropriate advice and support as required to headteachers or nominated representatives and governing bodies conducting investigations, disciplinary hearings, and appeals. They are not responsible for maintaining standards of conduct in schools. They are not responsible for making decisions in relation to disciplinary penalties; these remain at all times the responsibility of the headteacher, and governor panels. HR Services is accountable for the advice they give.

Trade Union Representatives are responsible for providing advice and support as required to their members on matters of discipline, and representing any of their members in disciplinary hearings and appeals.

APPENDIX 2 - EXAMPLES OF MISCONDUCT

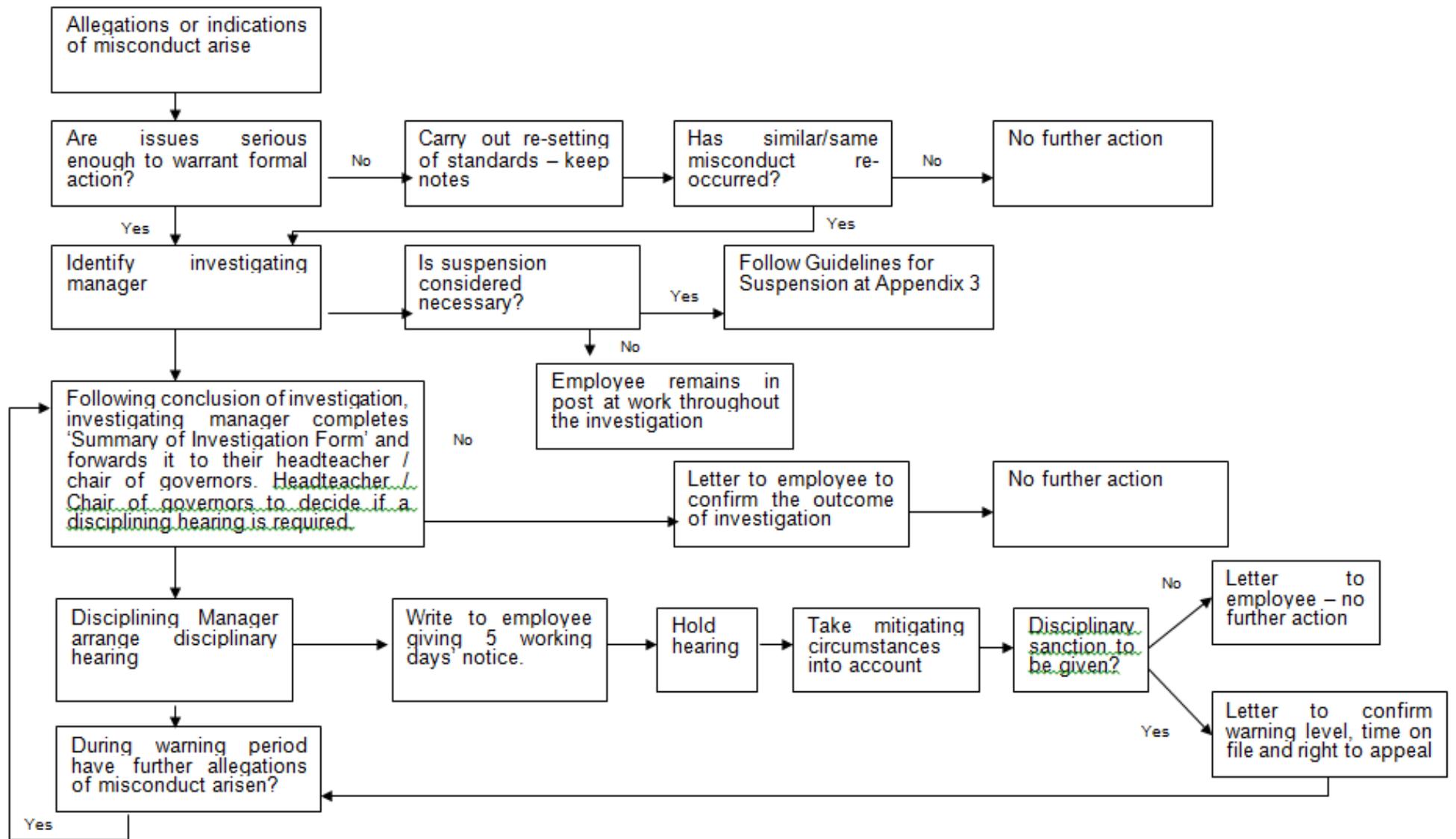
EXAMPLES OF GROSS MISCONDUCT - This list is not exhaustive.

- Bullying or harassment; to include cyber-bullying whether it be on the basis of age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation or any other grounds.
- Theft or fraud; from the school, governors, other employees, pupils or members of the public
- Malicious or serious damage or misuse to school / governing body property or equipment
- Fighting or assault
- Serious incapability through alcohol or being under the influence of illegal drugs
- Falsification of records e.g. timesheets, expenses claims or qualifications/criminal record in a job application etc. or aiding someone else in doing so
- Sexual or indecent assault
- Deliberately accessing Internet sites containing pornographic, offensive or obscene material, or the forwarding on of emails containing these
- Serious and/or repeated breaches of health and safety rules e.g. endangering other people or resulting in damage to property and/or equipment
- Serious insubordination or disobedience of instructions, or failure to co-operate with the employer
- Serious negligence which causes unacceptable loss, damage or injury.
- Bringing the school / governing body into serious disrepute
- Serious breach of confidence

APPENDIX 3 – GUIDELINES FOR SUSPENSION

1. Suspension from duty is not intended as a disciplinary measure in itself and should not be seen as punitive or pre-judging the outcome of any investigation. Suspension should be seen as a neutral act.
2. Suspension should not be an automatic response when an allegation is reported; careful thought should be given to each case and will be dependent on the circumstances.
3. Suspension is usually only appropriate:
 - In cases which appear to involve gross misconduct; or
 - In order to allow a thorough and unhindered investigation to take place; or
 - For reasons of safety
4. At the suspension meeting the headteacher or nominated representative (or chair of governors if suspending a headteacher) should:
 - Inform the employee of each and every allegation made against them, being as specific as possible.
 - Try and obtain an initial response to each allegation, namely acceptance, denial or no comment.
 - Spell out which allegations, if any, constitute gross misconduct, or otherwise explain why the suspension is necessary.
 - Explain that the suspension is immediate, but that it is neither an indication of perceived guilt, nor a disciplinary penalty.
 - Explain that an investigation into each allegation is being undertaken and that the outcome of the investigation could lead to informal action, a formal disciplinary hearing, other management action, or no further action.
 - Either give the employee a date, time and venue for an investigatory meeting or let them know when they may expect to receive these details.
 - Advise them that they should stay away from work premises, avoid using the information networks such as email, and avoid contact with pupils, parents, other employees and elected members / governors until the matter is resolved, using the investigating manager for indirect contact where necessary. The employee should be made aware of who is the investigating manager where this is someone other than the headteacher.
 - Explain that they should make themselves available during normal working hours.
 - Advise them that, if pressed for information by pupils, parents or other employees, governors or elected members they should simply explain that they are away for a short time while some work matters are resolved.
 - Secure the return of any council or school property and explain that this will be returned to the employee, if appropriate, as soon as the matter is resolved.
 - Check the employee's home address and contact numbers and instruct them to notify the investigating manager immediately of any changes, including notification of sickness, which occur during the suspension.
 - Handle any enquiries about the suspension, but do not be drawn into the detail of the investigation.
 - Inform them they may wish to contact their trade union representative
5. On receipt of the above information, either orally, or in writing, HR Services will provide a template letter confirming the details of the suspension. See TEMPLATE 3 – SUSPEND Only the governing body has the authority to end the suspension of a member of staff.

APPENDIX 4 DISCIPLINARY PROCEDURE – KEY STEPS TO FOLLOW



Version log

Version	Status	Date	Description of change	Reason for change	Pages affected
0.01					